

ART. IX.—EMOTIONAL INSANITY IN ITS MEDICO-LEGAL RELATIONS.

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THE subject of insanity is one that interests more or less every individual, not alone because of his or her possible personal liability to it, but as a citizen and member of society. An insane man is not merely an unfortunate to be pitied for having lost the use or control of that which makes him a man, he is also a positively detrimental and even a dangerous element in the community. The safety either to himself or to others, of even the most apparently harmless lunatic is a matter of some uncertainty—we cannot in any event, place him on the same plane in this respect as the person of sound mind. And at the present time when, either owing to the special character of our civilization or to other causes, insanity is apparently so increasingly prevalent, this question of its relation to the safety of the individual and the public obtains an importance that it never had before.

The title selected for me for this essay, “Emotional Insanity in its Medico-Legal Relations,” is one that has a direct bearing on this question of the public safety. It is, however, a title that needs definition, for it includes a wider range of possible subjects than was perhaps anticipated when it was chosen. If I am not mistaken, it suggests to most who hear it, a very dubious plea of insanity by the defense in criminal cases, a kind of convenient mental disorder that is never proven to exist except when it is needed to defeat justice. “The insanity dodge” and “emotional insanity” are alike expressions of derision in the daily press, which indicate the popular prejudice against this plea. How much this is deserved will be discussed later on, here we can only note the fact of its existence.

stitute the law, there is no alternative in these cases between conviction and practical acquittal. Ordinary asylums are not proper places of detention for determined criminals, who I think always, sooner or later, make their escape.

The above is an extreme case, but not at all an impossible one in my opinion. Cases are constantly coming before our courts in which insanity is plead and proven, and yet the necessary connection between the crime and insanity is by no means clear. In civil courts, I believe, a better usage prevails than in criminal cases, a man's civil capacity is adjudged in some measure by the character of the act in question; a will, for example, if in all respects such as a sane person would make, has been allowed to stand even though the testator was known to be insane at times, and it may be, even at the time of its making. Human life, which is involved in the penalty for capital offenses is of course a more serious thing to deal with than property, that is usually under consideration in civil cases. But in this matter it need not be involved; no insane man should ever be executed. English courts have for hundreds of years been trying to make hard and fast lines of demarcation between sanity and insanity for these cases, and not one of their dicta can stand medical criticism. If, however, we leave out the extreme penalty of the law in all dubious cases, there is little that can prevent an easy settlement of every case on its own proper merits, and nothing at all in a medical point of view, certainly not if instead of a penitentiary there is a special criminal lunatic asylum to which to send the criminal or patient, whichever way he may be considered, for life. This recognition of partial responsibility seems the only way to meet the needs of the case. And certainly the present state of the law, recognizing no distinction in this respect between the different forms of insanity, bringing a stigma on a legitimate plea by allowing the guilty to escape, and often we fear, unduly punishing the irresponsible, is in all respects eminently unsatisfactory.